

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

MARK STEVEN COHEN  
TX-1336328-R

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DOCKETED COMPLAINT NO. 09-080

**AGREED FINAL ORDER**

On this the 21<sup>st</sup> day of May, 2010, the Texas Appraiser Licensing and Certification Board, (the Board) considered the matter of the certification of Mark Steven Cohen (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

In order to conclude this matter Mark Steven Cohen neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

**FINDINGS OF FACT**

1. Respondent, Mark Steven Cohen, is a state certified residential real estate appraiser, holds certification number TX-1336328-R, and has been certified by the Board during all times material to this complaint.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE Chapter 1103 (Vernon 2007) (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§153, 155, 157 (West 2007) (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. On or about November 18<sup>th</sup>, 2008, the Respondent appraised real property located at 13533 Quail View Drive, Fort Worth, Texas ("the property").
4. On or about January 5<sup>th</sup>, 2009, the Complainants Ann and Kurt McManigal, filed a complaint with the Board based on allegations that the Respondent had produced an appraisal report that contained various deficiencies.
5. On or about January 9<sup>th</sup>, 2009, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. Chapter 2001, notified Respondent of the nature and accusations involved and Respondent was afforded an opportunity to respond to the accusations alleged by the Complainant. Respondent's response to the complaint was received.

6. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the property:

- a) Respondent failed to consider and report easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances or other items of a similar nature;
- b) Respondent failed use an appropriate method or technique to develop an opinion of site value;
- c) Respondent failed to collect, verify, analyze and reconcile the cost new of improvements and failed to employ recognized methods and techniques in his cost approach;
- d) Respondent failed to collect, verify, analyze and reconcile the comparable sales data adequately and failed to employ recognized methods and techniques in his sales comparison approach; and,
- e) Respondent failed to reconcile the quality and quantity of the data within the approaches used, and the applicability or suitability of the approaches.

## CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE §§ 1103.451-1103.5535.

2. Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Standards: 1-2(e)(iv) & 2-2(b)(viii); 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(ii) & 2-2(b)(viii); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 1-6(a) & (b) and, 2-2(b)(viii).

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent shall:

- a. Attend and complete a minimum, 15 classroom-hour course in Cost Approach; and
- b. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future, or be subjected to further disciplinary action.

**ALL CLASSES** required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order may be taken

through correspondence courses. Unless otherwise noted above, all classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for certification. Respondent is solely responsible for locating and scheduling classes to timely satisfy the terms of this agreement.

Failure to comply with any of the terms of this Agreed Final Order within the time allotted shall result in **IMMEDIATE SUSPENSION** of the Respondent's certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the requirements of this Agreed Final Order.

**ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.** Respondent shall be notified of any such suspension or lifting of probation by certified mail, return receipt requested, to the last known address as provided to the Board. If Respondent's certification is suspended on such a basis, the suspension shall remain in effect until such time as Respondent satisfies that portion of the Agreed Final Order which he has defaulted on and provides adequate documentation of same to the Board.


Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

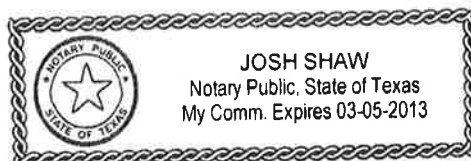
THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 10 day of March, 2010.

  
MARK STEVEN COHEN

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 10 day of March, 2010, by MARK STEVEN COHEN, to certify which, witness my hand and official seal.

  
Notary Public Signature



J. L. Shaw

Notary Public's Printed Name

Signed by the Commissioner this 21 day of May, 2010.

Douglas Oldmixon  
Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 21<sup>st</sup> day of May, 2010.

James B. Ratliff  
James B. Ratliff, Chairperson  
Texas Appraiser Licensing and Certification Board